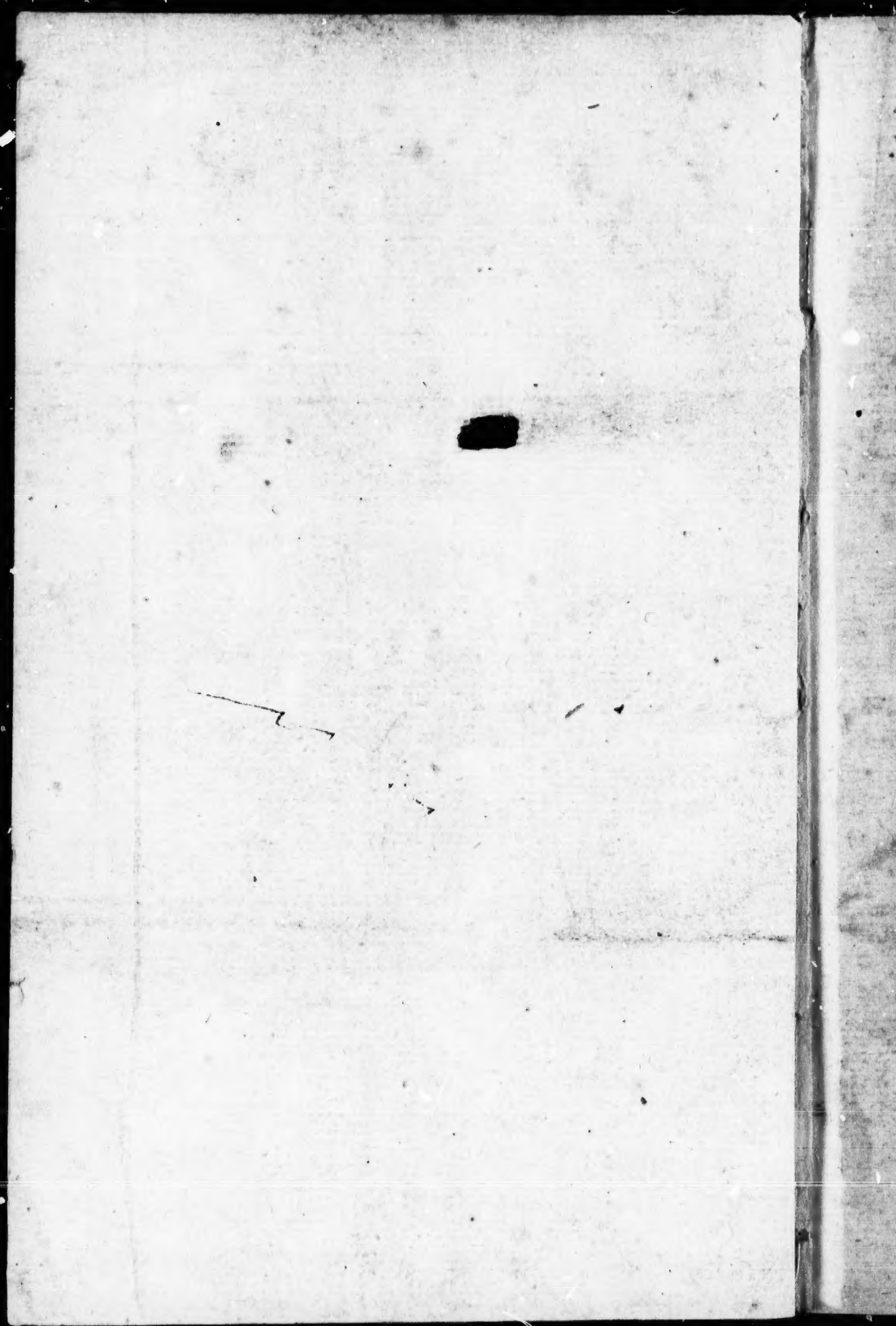




Capt. Caldwell 1789
M I N U T E S

OF A

COURT MARTIAL,

Assembled and held on board

HIS MAJESTY'S SHIP DIDO,

In Halifax Harbour, Nova Scotia,

The 21st Day of May, and by Adjournment until
the 23d Day of May, 1783:

IN PURSUANCE OF AN ORDER FROM

HERBERT SAWYER, Esq.

Rear Admiral of the White, and Commander in Chief, &c. &c.

Dated the 16th Day of May instant,

TO TRY

ISAAC COFFIN, Esq.

Captain of his Majesty's Ship the THISEE,

ON A CHARGE EXHIBITED AGAINST HIM BY

Mr. THO. HUCHENSON WYNTER,

Master of the said Ship,

For false Musters in several Instances on the said
Ship's Books.

WITH THE

MINUTE OF THE BOARD OF ADMIRALTY,

AND

CAPTAIN COFFIN'S MEMORIAL,

PRESENTED TO THE

LORDS OF THE ADMIRALTY.

L O N D O N :

PRINTED IN THE YEAR M.DCC.LXXXIX.



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Minutes of a Court Martial, &c.

P R E S E N T,

CHARLES SANDYS, Esq; senior captain
of his Majesty's ships and vessels in Halifax
harbour, president;

Captains Sir JAMES BARCLAY, Bart.

PAUL MINCHIN,

SAMUEL HOOD,

EDWARD BULLER;

Being all the captains and commanders of his
Majesty's ships and vessels in Halifax harbour.

THE prisoner being brought into court at-
tended by the provost martial, and all the
witnesses, and every other person who thought
proper to be present, being admitted, the court
was sworn agreeably to act of parliament, the or-
der for the court's assembling being first read, to-
gether with a warrant from the president, appoint-
ing Mr. John Tyson to execute the office of de-
puty judge advocate on this occasion, the judge
advocate of the fleet and his deputy being absent.
The annexed letter from Mr. Thomas Huchenson
Wynter to Herbert Sawyer, Esq; rear admiral of
the white, and commander in chief, &c. &c. &c.
dated the 28th October, 1787, per log, and con-
taining the charges against the prisoner, was then
read; and all the witnesses being ordered to with-
draw, the prosecutor wanted to exhibit another

A 2

charge

page 26

charge against the prisoner, which was refused; and the court, being cleared, gave it as their opinion, that no charge whatever against the prisoner can be received, but such as is stated in the prosecutor's letter to the commander in chief.

The court being then opened,

Mr. THOMAS RUSSELL, captain's clerk of his Majesty's ship the *Thistle*, was sworn, and examined as follows.

Prosecutor.—Question. In the latter end of October last, did you not bring me the *Thistle's* Monthly Book for August and September, 1787, and tell me the captain desired I would sign it?

Answer. Yes.

Q. What answer did I make you?

A. As near as I can recollect I met you coming out of the gun-room; you desired I would leave the book upon your bureau, and you should be down presently.

Q. Was that book signed by captain Coffin?

A. Yes.

Q. Was not John Francis, able seaman, mustered on that book, the whole time the book was made for?

A. Yes.

Q. Do you know if John Francis was on board the ship in the months of August and Sept. last?

A. I believe not.

Q. Was not Christopher Carleton and Thomas Carleton rated able seamen in the same book, and mustered for the whole time they were rated?

A. Yes.

Q. On

Q. On what day were they rated able seamen?

A. Some time in the month of August last, but I do not recollect the day.

Q. Did you ever see them on board the ship during the time the Monthly Book was made for?

A. No.

Q. Were not the names of Guy Carleton and George Carleton borne as captain's servants on the same book, and mustered from the day they were entered until the end of September?

A. Yes.

Q. On what day were they entered?

A. On the day the other were rated able.

Q. Did you ever see them on board the ship any part of the time they were mustered on that book?

A. No.

Q. Some time after you had given me that book, did you not ask me if I had signed it?

A. Yes, I asked you two or three times after I gave it to you, in the course of the afternoon.

Q. What answer did I make you?

A. You first told me, you had not looked over it; the last answer you gave me was, that those Carletons were not on board, and that you would not sign the book.

Q. On the same day, did not captain Coffin, under the half deck, in your presence, ask my reasons for refusing to sign the Monthly Book?

A. He asked you what objections you had to signing it.

Q. What answer did I make him?

A. A similar answer to what you had made me, but I do not exactly recollect it.

Q. Do

Q. On

Q. Do you not recollect the conversation that passed between captain Coffin and me at that time?

A. Captain Coffin * asked you if the Carletons were not on the spot, the ship being along-side the King's wharf: you answered, that the ship had been at sea for some time. Some other conversation passed at the time, which I do not immediately recollect, but it ended in captain Coffin's ordering me to make out another Monthly Book.

Q. Was not the ship at sea during the greatest part of August and September last?

A. She was in the river and gulph of St. Lawrence.

This witness was then directed to withdraw, and Mr. ROBERT NEWBERRY, surgeon of his Majesty's Ship Thisbe, was called into court and sworn.

Prosecutor.—**Q.** In the latter end of October last, did I not, in the Thisbe's gun-room, request you to remark the circumstances which I told you had induced me to refuse signing the Monthly Book for August and September last?

A. Yes.

Q. Was not Christopher Carleton and Thomas Carleton rated able seamen in the same Book, and mustered for the whole time they were rated?

* N. B. This is incontrovertible, and shews the captain's ideas, that the form of ordering the young men to appear to a muster might be dispensed with upon the notoriety of the fact, that they were upon the spot, and might have appeared; but as the objection was made at a distant period, and the omission for the past time could not be rectified but by a correction of the book—the book was corrected.

A. They

A. They were.

Court.—Q. How do you know they were mustered?

A. I answer, considering the letters to be a proof.

Prosecutor.—Q. On what day were they entered as able seamen?

A. The 19th day of August, per log, to the best of my recollection.

Q. Did you ever see them on board during those months?

A. I never did.

Court.—Q. Do you know if those people were on the spot?

A. No, I do not know.

Prosecutor.—Q. Were not the names of Guy Carleton and George Carleton borne as captain's servants on the same book, and mustered from the time they were entered until the end of September?

A. They had the letters as the others had.

Q. What day were they entered?

A. The 19th day of August, per log, as well as I can recollect.

Court.—Q. Do you know that those people were never on board at the times you have been on shore with leave?

A. I do not.

Q. Were you ever out of the ship on leave in those two months?

A. I believe I have frequently.

Prosecutor.—Q. Whether John Francis, able seaman,

seaman, was not mustered on the book for the whole time it was made for?

A. He was.

Q. Do you know if John Francis was on board the ship in the months of August and September last?

A. I do not know, I never saw him.

Q. What time did John Francis return to the ship?

A. I do not remember the day, but it was some time before the ship came from the wharf in the latter end of April.

Court.—Q. Do you know whether the Monthly Books alluded to, were sent home signed by the officers?

A. I do not.

Prisoner.—Q. You speak of the muster letter, what was it?

A. The first letter against them, to the best of my recollection, was I, and the letters following to O.

This witness was now ordered to withdraw, and Mr. THOMAS TWYSDEN, second lieutenant of his Majesty's ship *Thisbe*, was called in and sworn.

Prosecutor.—Q. In the latter end of October last, did I not, in the *Thisbe's* gun-room, request you to remark the circumstances which I told you had induced me to refuse signing the Monthly Book for August and September last?

A. Yes.

Q. Was not Christopher Carleton and Thomas Carleton

Carleton rated able seamen in the same book, and mustered for the whole time they were rated?

A. Yes.

Q. On what day were they rated?

A. On the 19th day of August per log.

Q. Did you ever see them on board the ship during those months?

A. No.

Court.—Q. Were you ever out of the ship in those months?

A. I was on shore occasionally on leave.

Q. Do you know, that, during the time you were on shore, those people had never been on board?

A. I never heard they had.

Q. Might they not have been on board, and you have never heard of it?

A. I should think they might.

Prosecutor.—Q. Were not the names of Guy Carleton and George Carleton borne as captain's servants on the same book, and mustered from the day they were borne until the latter end of September?

A. Yes.

Q. On what day were they entered?

A. On the 19th day of August per log.

Q. Did you ever see them on board the ship during those months?

A. No.

Court.—Q. Do you know they were not on board in those months?

A. I never heard they had been on board.

B

Pro-

Prosecutor.—Q. Was not John Francis, able seaman, mustered on that book the whole time it was made for?

A. Yes.

Q. Do you know if John Francis was on board the ship in the months of August and September last?

A. I never saw him on board.

Court.—Q. Might he not have been on board while you were on shore on leave, without your knowledge?

A. I think he might.

Prisoner.—Q. You mention the circumstances of Thomas and Christopher Carleton being mustered as Ab. and Guy and George Carleton as captain's servants, pray do you remember the muster letters?

A. I do.

Q. What were they?

A. The letters on the book were, I, K, L, M, N, O.

Court.—Q. Do you know that the Monthly Books for those months were sent to the Navy Office signed by the different officers, and whether those people had those letters that you have before mentioned against them in the book?

A. I really do not know.

This evidence was then ordered to withdraw, and Mr. JOSEPH TURNER, first lieutenant of his Majesty's ship the *Thistle*, was called and sworn.

Pro-

Prosecutor.—Q. In the latter end of October last, did I not, in the Thisbe's gun-room, request you to remark the circumstances which I told you had induced me to refuse signing the Monthly Book for August and September last?

A. Yes.

Q. Was not Christopher Carleton and Thomas Carleton rated able seamen on the same book, and mustered for the whole time they were rated?

A. They certainly were.

Q. What day were they rated as able seamen?

A. The 19th day of August, 1787, per log.

Q. Did you ever see them on board the ship in those months?

A. Never.

Q. Were not the names of Guy Carleton and George Carleton borne as captain's servants on the same book, and mustered from the day they were entered until the end of September?

A. Yes.

Q. What day were they entered?

A. On the 19th day of August, 1787, per log.

Q. Did you ever see them on board the ship during those two months?

A. Never.

Q. Was not John Francis mustered on that book the whole time the book was made for?

A. I observed that he had eight muster letters.

Q. Do you know if John Francis was ever on board in the months of August and September last?

A. Never, to the best of my knowledge; the last day of July was the last day I saw him.

Court.—Q. Were you ever on shore in the months of August and September last?

A. I believe I was.

Q. Do you know that those people the prosecutor alludes to were never on board during the times you were on shore?

A. This I cannot say, but firmly believe to the contrary.

Prosecutor.—Q. What time did John Francis return to the ship?

A. I well remember it was on the 21st day of April, 1788, per log.

Court.—Q. Do you know whether any Monthly Books for the months of August and September are gone home?

A. I do not.

This evidence was then ordered to withdraw, and Mr. WILLIAM DARLEY, lieutenant of marines on board his Majesty's ship *Thistle*, was called into court, and sworn.

Prosecutor.—Q. In the latter end of October last, did I not, in the *Thistle's* gun-room, request you to remark the circumstances that I told you, had induced me to refuse signing the Monthly Book for August and September last?

A. You did.

Q. Were not Christopher Carleton and Thomas Carleton rated able seamen on the same book, and mustered for the whole time they were rated?

A. They were what I understand to be so.

Q. On what day were they entered as able seamen?

A. To

A. To the best of my remembrance, on the 19th day of August, 1787, per log.

Q. Did you ever see them on board the ship in those months?

A. No.

Court.—Q. Might they not have been on board and you not have seen them?

A. They might.

Q. Do you know that they never were on board during times you have been absent from the ship?

A. No, not of my own knowledge.

Prosecutor.—Q. Were not the names of Guy Carleton and George Carleton borne as captain's servants on the same book, and mustered from the day they were entered until the end of September?

A. They were.

Q. On what day were they entered?

A. The same date, as well as I can remember, as the others.

Q. Did you ever see them on board the ship during those months?

A. No.

Q. Was not John Francis, able seaman, mustered on that book the whole time the books were made for?

A. He was what I understand to be so.

Q. Do you know if John Francis was on board the ship in the months of August and September last?

A. From the second day of August I think he was

was not; because, if I mistake not, we went down the river at that time, and left him behind, to the best of my knowledge.

Court.—Q. Were you at any time absent from the ship between the 2d day of August and the last of September?

A. I believe I might have been.

Q. Are you sure the ship was absent from Quebec during those two months?

A. I did not remark the period of her return to Quebec.

Q. You say that you have been on shore frequently in those months, might not John Francis have been on board in that time?

A. If during the period mentioned the ship was at Quebec, there is a possibility that he might.

This witness was also ordered to withdraw, and Mr. WILLIAM MOORE, purser of his Majesty's ship the *Thistle*, was called into court and sworn.

Prosecutor.—Q. Did you not, on the 29th day of October, 1787, per log, go with the captain's clerk about 8 o'clock in the morning with the Monthly Book for August and September to captain Coffin's lodgings to have it altered?

A. I do not remember ever going with the captain's clerk and the Monthly Book to captain Coffin's lodgings.

Q. Were the Monthly Books for August and September ever altered?

A. I believe they were altered.

Q. Did

Q. Did you sign those books after they were altered?

A. Yes.

Q. Were Thomas and Christopher Carleton, able seamen, on those books you signed?

A. No.

Q. Were Guy or George Carleton, servants?

A. No, to the best of my recollection they were not.

Q. Were the muster letters taken off from John Francis in that book you signed?

A. He was not mustered in those Monthly Books.

Court.—Q. You have heard the charge?

A. Yes.

Q. Are the Monthly Books for August and September last gone to the Navy Office?

A. I believe they are.

Q. Were those Monthly Books signed by the captain and officers?

A. Yes.

Q. Were those people, alluded to in the charge by the prosecutor, chequed or mustered in the Monthly Books for August and September last?

A. John Francis was chequed absent with leave, and none of them were mustered as represented in the charge.

Here this witness was ordered to withdraw, and Mr. THOMAS RUSSELL, captain's clerk of the *Thistle*, was again called by order of the court, and examined as follows:

Court.

Q. Did

Court.—Q. Have you heard the charge?

A. Yes.

Q. Are the Monthly Books for the months of August and September last, gone to the Navy Office, signed by the captain and officers?

A. Yes.

Q. Were the people, alluded to in the charge by the prosecutor, chequed or mustered in the Monthly Book for August and September last?

A. John Francis was chequed, Thomas and Christopher Carleton were erased from their qualifications as able seamen, and remained with the rating of servants as they were before, and George and Guy Carleton were not on the books that were sent home.

Here the prosecutor proposed asking the witness a further question, when the court was cleared to consult on the propriety of his examining the witness a second time, when he had before declared he had no further questions to ask him, and agree, if the prisoner has no objections they will admit of it.

Court opened.

Prosecutor.—Q. Was that the same book that I signed, that you brought to me at first?

A. It was, except with the difference of the alterations which I have already related.

Prisoner.—Q. Were not those alterations made the instant the master pointed out the errors that subsisted in the book, by my command?

A. As soon as Mr. Wynter stated his objections, you ordered me to make the alterations immediately,
and

and I made them the same afternoon, or the next morning.

Q. Did I not express my surprize that my cook Francis stood open on the books for his provisions, and ordered you to cheque him absent with my leave?

A. When I acquainted you that Mr. Wynter objected to John Francis as well as the other persons, you ordered me to cheque him immediately for the whole time he was absent.

Here the evidence for the prosecution closed, and, at the request of the prisoner, a letter was read from Mr. Stephens, secretary to the Admiralty, directed to him, as late president of a court martial held at Quebec, respecting the swearing the prosecutor as an evidence, a copy of which letter is here also annexed.

The prisoner was now put upon his defence, but, before any witnesses were sworn, he asked leave to put the following question to the court: Whether the court think it necessary the master should call upon me to produce the books of his Majesty's ship *Thistle*, to substantiate the charge he has brought against me?

The court was here cleared, and were of opinion that there was no necessity for the master to call for the books of his Majesty's ship *Thistle*, but that the court wish to have them produced for their inspection. Here the books were produced, and were examined by the court.—The court then being opened, a letter from the prisoner to the Navy Office, accompanying the *Thistle's* Monthly Books

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Books for August and September, 1787, was produced and read, and a letter from the commissioners of the Navy in answer thereto was also read, acquainting him they had received the said books; copies of which letters are hereunto annexed. The court then ordered Mr. THOMAS RUSSELL, captain's clerk of the *Thisbe*, to be called into court, and examined, as follows:

Court.—Q. Are these books of your keeping?
A. Yes.

Q. Are the Monthly Books for the months of August and September, 1787, a true copy of the Muster Book here produced?

A. The Muster Book here produced shews the exact state of the Monthly Books for August and September, to the best of my knowledge, except any errors may have arisen in copying.

This evidence was then ordered to withdraw, and Mr. THOMAS HUCHENSON WYNTER, master of his Majesty's ship *Thisbe*, was called into court, and sworn to give evidence on behalf of the prisoner; when the following questions were put by the

Prisoner.—Q. Did I personally command you to sign the Muster Book?

A. No, it was brought to me by your clerk.

Q. Did I ever command, counsel, or procure you to make or sign the musters specified in your charges, or any other papers whatsoever?

A. No, they were always sent by the clerk.

Q. Did I ever aid or abet you in signing any muster or muster books?

A. No.

Q. When-

Q. Whenever any books or papers were presented to you to be signed, did I ever hinder you from reading and examining them thoroughly?

A. No.

Q. What reason did you give me for not signing the Muster Book in question?

A. Thomas and Christopher Carleton's being rated able seamen, Guy and George Carleton's being rated captain's servants, and John Francis being mustered on the books.

Q. Did I not immediately order another book to be made out as soon as you had stated your objections to the errors the former one contained?

A. Yes.

Q. Did you not sign that book after it was made out?

A. Yes.

Q. Was not that the Monthly Book for August and September, 1787?

A. Yes.

Q. Was not John Francis chequed for the whole time he was absent as soon as you had made known to me that he was mustered for his provisions?

A. Yes.

Q. Have you ever served with a captain who has been more careful in his ship's accounts than I have, particularly in the expence of stores, and in transmitting books and papers, at the proper periods, to the public boards?

A. No.

Q. Do you know that there were any provisions issued by the purser to John Francis while he was absent, or on his account?

A. No, I cannot tell.

Q. Previous to the ship's sailing from England, did I not give up the rating of the ship's company entirely to you and the rest of the officers, and did I not rate every body agreeable to your opinion, but mates and midshipman?

A. No, I never was asked my opinion.

Q. When the Muster Book in question was altered, did you ever acquaint me of your intention to write to the commander in chief for a court martial on me?

A. No.

Q. Did you through me transmit your letter to the admiral?

A. No.

Here the court was cleared to consider the propriety of a question intended to be put by the prisoner to the prosecutor, which they think inadmissible. The court being again opened, Mr. Wynter was ordered to withdraw, and Mr. WILLIAM MOORE, purser of his Majesty's ship the *Thistle*, was called by the prisoner and sworn.

Prisoner.—Q. Have I not frequently signified to you that I should always avoid any thing in the ship's books that could bear the least construction of a false muster?

A. Yes, you have frequently said so.

Q. Did you ever receive an order from me to victual the persons mentioned in the charge in August and September last?

A. No *.

* It is the practice of the service to bear servants on the ships' books, chequing them for their provisions, their wages being a part of the captains and officers' pay.

Q. Did

Q. Did you not, on all other occasions, receive a note from my clerk in my name to victual every person as soon as he was entered agreeable to the printed instructions?

A. I always either received a note or a verbal message, but generally a note to victual them.

Q. Did you ever issue provisions for the persons mentioned in the charge?

A. No.

Q. Did I ever signify to you that yourself or any other person was to benefit by those masters?

A. Never.

Q. Were not all my servants actually on board when the ship left England?

A. Yes.

Q. Did not I shew a disposition to correct instantly the errors the master said existed in the book presented to him, as soon as they were known to me?

A. You said you would order them to be altered immediately.

Q. Was not the Monthly Book for August and September, 1787, signed by the master the same day, or the day after that he had objected to the one presented by my clerk?

A. I believe it was that day or the next, but do not recollect exactly.

Q. Have you ever served in any ship where the captain has been more careful in the ship's accounts than I have, to the best of my knowledge, particularly in the expence of stores, and in transmuting books and papers at the proper periods to the public boards?

A. No, I never knew a captain more particular
This

This witness was now ordered to withdraw, and Mr. THOMAS RUSSEL, captain's clerk of his Majesty's ship *Thïsbe*, again called into court to give evidence for the prisoner, and sworn.

Prisoner.—Q. On my first taking the command of the *Thïsbe*, and frequently afterwards, did I not tell you it was my intention carefully to avoid every thing in the ship's books that might bear the least construction of a false muster?

A. Yes.

Q. Previous to the ship's sailing from England, did I not give up the rating of the ship's company entirely to the officers, and did I not rate every body agreeable to their opinion, except mates and midshipman?

A. Yes.

Q. Did I ever give directions to the purser to victual those persons mentioned in the charge, or did you ever, in my name, or from yourself, give him a note for them to be victualled*?

A. An order was sent to the purser to victual the three first on their original entry in the ship, but he had never any order to victual George Carleton or Guy Carleton in the months of August and September last.

Q. Was John Francis victualled from the time he left the ship in August until he returned in April last?

A. When the book was altered, he was chequed, and continued so the whole time he was absent.

* Their original entry was as part of lord Dorchester's family, borne for provisions on their passage to America, by order of the lords commissioners of the Admiralty.

Q. Did

Q. Did I ever command, procure, or counsel the master to sign any false muster or muster book?

A. No; not to my knowledge.

Q. Did I know that the master had wrote to the commander in chief for a court martial on me when I altered the Muster Book?

A. No.

Q. Was I ever present at his signing the ship's books?

A. Never before August and September last, and I believe but once since.

Q. Did I ever hinder the master from reading and examining thoroughly all books and papers before he signed them?

A. Never to my knowledge.

Q. Were not all my servants actually on board when the ship left England?

A. Yes.

This witness was then ordered to withdraw, and here ended the evidence in behalf of the prisoner.

The prisoner then requested two letters might be read to the court, one from his excellency lord Dorchester, the other from colonel Thomas Dundas, one of the commissioners for American claims; copies of which are here annexed. These being read, the prisoner then produced a written defence, which he requested permission from the court to read (a copy of which defence is also hereunto annexed.) Leave being given, he proceeded to read the same. When this was done, it being late in the afternoon, the president adjourned the court until to-morrow morning at ten o'clock.

THURSDAY,

THURSDAY, 22d *May*, 1788,
10 o'Clock, A. M.

The court assembled according to adjournment.

THE court being opened, and all the evidences called over, it was cleared to proceed to the consideration of the evidence given; when having sat until half past four o'clock, P. M. and some doubts arising to prevent the court coming to a final decision on the sentence, they thought it proper to adjourn until to-morrow morning at 10 o'clock, A. M. and the court was adjourned accordingly.

FRIDAY,

FRIDAY, 23d *May*, 1788,

10 o'Clock, A. M.

THE court again assembled according to adjournment, and being opened, and the evidences called, the court was ordered to be cleared, to proceed in the consideration of the evidence given; and at 12 o'clock the court having very maturely and deliberately considered of the evidence in support of the charge, as well as on behalf of the prisoner, and what he had to say in his defence, as also his written defence read, and delivered into court—and the court, being now opened, is of opinion The charge is proved; but it appears to the court that the prisoner had no intention whatsoever of defrauding his majesty, nor was there any loss sustained by his majesty from the said musters, which they are clearly of opinion takes off a great part of the crime of a False Muster, and do therefore adjudge the said captain Isaac Coffin to be dismissed the command of his majesty's ship the *Thistle*.

J. TYSON,

Deputy Judge Advocate,

D

Copy

DAY,

Copy of Mr. Thomas Huchenson Wynter's Letter
to Rear Admiral Sawyer, Commander in Chief,
&c. &c. containing the Charge exhibited
against the prisoner.

Thisbe, alongside the Wharf at Quebec,
28th October, 1787.

S I R,

I THINK it my duty to represent to you, as
commander in chief, the several instances of false
muster in the Monthly Book for August and Sep-
tember, 1787, signed by Isaac Coffin, esq. captain
of his majesty's ship Thisbe; and which book was
presented to me by Mr. Thomas Russell, his clerk,
to be by me signed, pursuant to his directions, and
which I refused to do for the following reasons, viz.

John Francis, Ab. absent from the ship for up-
wards of two months, during which time he was
borne for provisions and wages on the said book.

Secondly, Thomas Carleton, Ab. borne for
wages and provisions also, whereas no such person
hath ever appeared.

Thirdly, Christopher Carleton, Ab. borne un-
der the like circumstances.

Fourthly, Guy Carleton, captain's servant.

And, fifthly, George Carleton, captain's servant,
both of which are borne for provisions and wages
as aforesaid.

These instances I consider as fully justifying my
refusal, as being contrary to the articles of war, and
the general printed instructions; and for which *false*
musters

musters I have to request you will be pleased to order a court martial on the said Isaac Coffin, esq.

I have the honour to remain,

S I R,

Your most obedient,

And very humble servant,

(Signed) THO. HUCHENSON WYNTER.

Master of his Majesty's ship *Thiſbe*.

TO HERBERT SAWYER, Esq.

Comm. and Commander in Chief,

&c. &c. &c. Halifax.

Copy of Mr. Stephens's Letter to Captain Coffin, as President of a late Court Martial held at Quebec, respecting the swearing and examining a prosecutor as an evidence.

Admiralty-Office, 7th Nov. 1787.

S I R,

HAVING communicated to my lords commissioners of the Admiralty a letter signed by you and other members of a court martial assembled on board his majesty's ship the *Pegasus*, off Quebec, for the trial of the person therein mentioned, representing that a doubt had arisen, whether the prosecutor could be sworn as a witness, and requesting their lordships opinion thereupon; I am in return commanded to acquaint you, that their lordships are clearly of opinion, a prosecutor may, with great propriety, be examined as an evidence at a court martial.

I am,

S I R,

Your very humble servant,

(Signed)

PHILIP STEPHENS.

Captain COFFIN, *Thiſbe*, Quebec.

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Copy

Copy of Captain Coffin's Letter to the principal Officers and Commissioners of his Majesty's Navy, accompanying the Thisbe's Monthly Books for August and September, 1787. Read to the Court.

Thisbe, Quebec, 28th Oct. 1787.

GENTLEMEN,

By the ship Carleton, of London, Alexander Paterfon, master, I have herewith transmitted to your office a Monthly Muster Book for his Majesty's ship Thisbe, under my command, for August and September, 1787, together with four remittance lists.

I am,

Gentlemen,

Your most obedient,

Humble servant,

(Signed) ISAAC COFFIN.

The principal Officers and Commissioners of his Majesty's Navy, London.

Copy of a Letter from the Navy Office to Captain Coffin. Read to the Court.

Navy Office, 22d January, 1788.

S I R,

WE have received your letter of the 28th Oct. with the Muster Book therein mentioned, whereon several men are not described, which we desire you will cause to be done in your next Muster Book.

We are, &c. &c.

(Signed) GEORGE MARSH,
E. LE CRAS.

Captain COFFIN, Thisbe,
Halifax.

Copy

Copy of a Letter from his Excellency Guy Lord
Dorchester to Capt. Coffin. Read in Court.

Quebec, 27th April, 1788.

SIR,

HEARING that the master of his Majesty's frigate under your command, has made objections to signing the ship's books with the names of my sons Thomas and Christopher inserted, I am to desire they may be struck off. Had I thought there had been the least impropriety in the measure, I never should have asked it: on the contrary, have always understood that it was the constant practice of the captains of the Navy, to enroll the names of young gentlemen intended for that service, in order to put them forward in their profession, at the same time they were on shore pursuing the mode of education adapted to the line of life into which they were going to engage. Thomas, the elder of the two, having expressed a desire to become a sailor, he was some years ago borne on the books of a guardship, commanded by captain Kingmill, and continued on the books of the same, or another guardship, till the time of his embarking on board the *Thïsbe*, nor did I ever hear that any objection was made thereto. Christopher, hearing his brother declare his intentions of going into the Navy, expressed a desire of doing the same; was accordingly induced to request that he might also be entered, that, in case he persevered in that intention, he might have the same advantage: nor can I allow myself to think, in either case, I made an improper request. I am, with great regard,

Your most obedient,

Humble servant,

(Signed) DORCHESTER:

Captain COFFIN.

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Copy of a Letter from Colonel Thomas Dundas,
to Captain Coffin. Read in Court.

Montreal, 21st April, 1788.

S I R,

YOUR Cook François left this place for Quebec yesterday morning, where I hope he will arrive in full time to go to sea with you. Mr. Pemberton and I join in giving you many thanks for the loan of him. From the particular nature of our present employment, moving frequently from place to place, we could have found no person who would have answered our purpose so well, and, indeed, at the moment you lent him to us, we were in distress for such a servant.

It is with surprize we learnt that this act of friendship to us had been made a matter of complaint against you. Should you think it necessary, you are at full liberty to produce this letter at your court martial, as it may serve to shew this act of yours, which proceeded from friendship and attention, in its true light. I am,

Sir,

Your most obedient,

Humble servant,

THOMAS DUNDAS.

Captain COFFIN.

The following is a Copy of Captain Coffin's written Defence, which he read and delivered into Court.

Mr. President, and Gentlemen of the Court,

THE master of his Majesty's ship Thisbe has charged me with a crime highly dishonourable in its nature, and of a very evil tendency to the king's service. I have served in the Royal Navy sixteen years,

years, six of which as post captain, and, during that period, no such stain ever contaminated my character. I shall not take up much of your attention, by dwelling particularly on any part of the evidence which my accuser has brought against me, satisfied you are already clearly convinced, that this person, instead of possessing that laudable zeal for his majesty's service that should actuate every good officer, has been led to exhibit these charges against me from malicious and vindictive motives, as will plainly appear from my having always shewn my abhorrence of doing any thing that could be construed a false muster, and my altering the book immediately agreeable to his objections; and that, notwithstanding my compliance, he did, on the same day, write to the commander in chief for a court martial, without giving me the least intimation of his intentions.

The Thibbe's books, being now before the court, shew the exact state of the Monthly Book that was transmitted to the Navy Office for August and September last. The Navy Board's letter proves the receipt of that book, and I hope the court will coincide with my opinion, that, when any of the signing officers acquaint a captain with errors existing in the accounts committed to their inspection, and the captain alters immediately those errors agreeable to such objections, and the rules of the service, there can be no cause of complaint. I profess myself to aspire to, and have the ambition to be thought a zealous officer, and have always endeavoured to merit that confidence my sovereign has placed in me, by honouring me with the command of one of his majesty's frigates, without having the most distant idea of committing a dishonourable action; and it pains me to be constrained

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to observe, that from a misunderstanding which had arisen between my officers (except the purser) and myself, I conceive this charge has taken its rise and been prosecuted. The intent and meaning of a false muster is, whenever an officer signs a Muster Book which he knows to be false, and permits it to be forwarded to the Navy Board; this, I presume, is the true interpretation of a False Muster. To guard as much as possible against inaccuracy, the instructions have very wisely directed, that there shall be several signing officers to a muster book. Had I, through oversight or inadvertency, signed a muster that was not correct, and the master had afterwards signed the same book, knowing of an error, his would have been a false signing, mine would not; he should, as he did upon this occasion, inform me of the error, and I was bound, as *I did*, to correct it.

I never begged, persuaded, or threatened my accuser, to induce him to sign the book in question; no advantage could possibly accrue to me from its being signed: I therefore rest fully assured the court will view this charge in its true light, vindictive and malevolent, and not an act becoming the character of an officer shewing a true spirit for his majesty's service. "I may, with great propriety, justify myself in not having sent this book, nor am I sure you can take cognizance of the charge without that proof being before you"; but, having neither fraud nor deceit in my mind, I am under no concern to acknowledge, that the error might have continued in the state set forth, had not the master very properly pointed it out.

If a captain is to be accused and brought before a court for such a charge as the present, very precarious

rious, indeed, is every captain's situation in the king's service, for I hold it not impossible that an error may creep into a muster book; for instance, a wrong muster letter. This may happen to the most cautious, but he might himself, nevertheless, be under the disagreeable necessity of answering for his conduct at a Court Martial for a trifling inaccuracy, fashioned into a crime by a bad man for the worst of purposes. The act itself, in the eye of the law, is essential to constitute the crime; if so I think it necessary to produce a muster book so completed and published.

I trust, the exposition of this charge is sufficiently strong to prove, that the accusation against me originated, not in truth for the sake of justice, but in malice for the sake of persecution. I hope, therefore, you will consider it as malicious, frivolous, and ill founded, tending materially to injure the king's service, by throwing impediments in the way of a captain in the execution of his duty; and had it not been for the great discernment of my Commander in Chief, I might have been a prisoner in my cabin for the space of six months, subject to every species of insult.

You must naturally conclude, that my reputation is dearer to me than my life; therefore, if you think the charge has not been proved, I hope to be honourably acquitted; if it has, and you believe I have wilfully deviated from the line of duty prescribed me by the articles of war and printed instructions, I ought to suffer the severest sentence a court can bestow.

I rely, with firmness, on the well-known integrity, candour, and honour, of a British Naval Court Martial, knowing it must judge of the pu-
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rity of my intentions by the proofs that have been adduced, and with pleasure commit my fate to their decision.

(Signed)

ISAAC COFFIN.

A true Copy.

At a Court Martial assembled and held on board his Majesty's ship Dido, in Halifax Harbour, Nova Scotia, the 21st day of May, and by adjournment until the 23d day of May, 1788,

PRESENT,

CHARLES SANDYS, Esq. Senior captain of his Majesty's ships and vessels in Halifax harbour, Nova Scotia, president;

Captains Sir JAMES BARCLAY, Bart.

PAUL MINCHIN,

SAMUEL HOOD,

EDWARD BULLER.

THE court, in pursuance of an order from Herbert Sawyer, esq. rear admiral of the white, commander in chief, &c. &c. &c. dated 16th day of May, 1788, and directed to Charles Sandys, esq. senior captain of his Majesty's ships and vessels in Halifax harbour, proceeded to try Isaac Coffin, esq. captain of his Majesty's ship the *Thisbe*, on a charge exhibited against him by Mr. Thomas Huchenson Wynter, master of the said ship, for false musters in several instances; and, having heard the evidence in support of the charge, as well as on behalf of the prisoner, and what he had to say in his defence, as also his written defence delivered into court, and having very maturely and deliberately considered the same, are of opinion
The charge is proved: but it appears to the court,
that

that the prisoner had no intention whatsoever of defrauding his Majesty, nor was there any loss sustained by his Majesty from the said Musters, which they are clearly of opinion takes off a great part of the crime of a False Muster : and therefore the court do adjudge him the said Isaac Coffin to be dismissed from the command of his Majesty's ship *Thistle* ; and he is hereby dismissed from the command of the said ship accordingly. Given on board his Majesty's ship *Dido*, Halifax harbour, Nova Scotia, the 23d May, 1788.

(Signed) CHARLES SANDYS,
JAMES BARCLAY,
P. MINCHIN,
SAMUEL HOOD,
EDWARD BULLER.

JOHN TYSON,
Deputy Judge Advocate.

A true Copy.
PHIL. STEPHENS.

July 2, 1788.

READ a letter from rear admiral Sawyer, commander in chief of his Majesty's ships in North America, dated at Halifax the 23d May last, inclosing the sentence of a court martial held on board his Majesty's ship the Dido, the 21st day of that month, for the trial of Isaac Coffin, esq. captain of his Majesty's ship Thisbe, upon a charge for false musters, of which the following is a transcript.

The court, in pursuance of an order from Herbert Sawyer, esq. rear admiral of the white, commander in chief, &c. &c. dated 16th day of May, 1788, and directed to Charles Sandys, Esq. senior captain of his Majesty's ships and vessels in Halifax harbour, proceeded to try Isaac Coffin, esq. captain of his Majesty's ship the Thisbe, on a charge exhibited against him by Mr. Thomas Huchenson Wynter, master of the said ship, for false musters, in several instances; and having heard the evidence in support of the charge, as well as on behalf of the prisoner, and what he had to say in his defence, as also his written defence delivered into court; and having very maturely and deliberately considered the same, are of opinion the charge is proved: but it appears to the court, that the prisoner had no intention whatsoever of defrauding his Majesty; nor was there any loss sustained by his Majesty from the said musters, which, they are clearly of opinion, takes off a great part of the crime of a false Muster; and, therefore, the court do adjudge him, the said
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Isaac Coffin, to be dismissed from the command of his Majesty's ship *Thistle*; and he is hereby dismissed from the command of the said ship accordingly.

The board having, thereupon, recourse to the 31st article of the articles of war, established by an act of the 22d Geo. II. expressly declaring, that every officer or other person in the fleet, who shall knowingly make, or sign, a false Muster or Muster Book, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall, upon proof of any such offence being made before a court martial, be cashiered, and rendered incapable of further employment in his Majesty's naval service, are of opinion, that the charge exhibited against captain Coffin *being proved*, the court had no authority to mitigate or vary the punishment imposed by the article of war above recited, and therefore consider him to be cashiered and rendered incapable of further employment in his Majesty's naval service.

Resolved,

That the said Isaac Coffin, esq. be struck off the list of captains of his Majesty's fleet.

The

The Right Honourable the Lords Commissioners for executing the Office of Lord High Admiral of Great Britain.

The memorial of Isaac Coffin, late Captain of his Majesty's ship *Thisbe*

Sheweth,

THAT your memorialist was, in pursuance of an order of Herbert Sawyer, Esq; rear admiral of the white, &c. &c. dated the 16th day of May, 1788, in Halifax Harbour, Nova Scotia, tried by a court martial, on a charge exhibited against him by Mr. Thomas Huchenson Wynter, master of the said ship, for several instances of false Musters in the Monthly Books for August and September 1787, signed by your memorialist.

That the court after sitting from the 21st to the 23d of the same month of May, and having heard the evidence in support of the charge, as well as on behalf of the prisoner, and what he had to say in his defence, as also his written defence delivered into court; and having very maturely and deliberately considered the same, were of opinion the *charge was proved*, but it appearing to the court that the prisoner had *no**

X * He is declared innocent as to intention; he is declared innocent as to any wrong, by which the public could suffer a loss; but he did an act. What? An act divested of all criminal imputation; an act, corrected as soon as it was questioned; an act not before the public: a mere proposition to do what he conceived he might do, and what, in fact, he did not do.—Vide evidence brought by the prosecutor, shewing the returns made to have been corrected and signed by the master himself.

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intention whatever of *defrauding* his majesty, and *there was no loss* sustained by his majesty from the said Musters, which they were clearly of opinion took off a *great part* of the crime of a false Muster; and the court did therefore adjudge your memorialist to be dismissed from the command of his majesty's ship *Thisbe*, and he was thereupon dismissed from the command of the said ship accordingly.

That your memorialist some time after his arrival in England in June last, to his great surprise and regret was informed, that the Lords of the Admiralty, notwithstanding the above-mentioned sentence had been passed by the court martial, had resolved, that for the said offence, your memorialist's name should be struck off the list of post-captains of his Majesty's Navy; which resolution against your memorialist implies, as he conceives, a disqualification from ever again serving in his Majesty's Navy. Of such new judgment having ever been given by the Lords of the Admiralty, in correction of the judgment of a court martial, your memorialist is advised there is no instance; nor can any analogous instance be found in the proceedings of any other superior court in the kingdom, which often reverse the erroneous judgments of inferior courts, but never pronounce new ones; that your memorialist conceives it would be extremely hard, that without hearing your memorialist, the Lords of the Admiralty should add to his punishment, in a case where they have no power to alter the sentence in his favour, and before your memorialist has had an opportunity of submitting to them any circumstances

intention

stances in his own favour—for such he conceives to exist.

That the resolution against your memorialist he humbly hopes may and ought to be rescinded, because there is a material and obvious difference between an order issuing from your lordships on your own persuasion of the unfitness of a person to serve in the navy; and an order you may ground on construction of the proceedings of a court martial—in the one case your conviction decides the fact, and in the other you render to the court martial an act the court has not done, nor had in contemplation to do; and this, a short review of the case of your memorialist, will make evident.

For the sentence of the court martial expressly declares your memorialist *free of all criminal intention*, and the public *service not damnified* by any of his acts; but, that the charge fixing upon him the imputation of making false Musters is proved, and therefore he is adjudged to be dismissed the command of his majesty's frigate. Your memorialist complains of the severity and injustice of this sentence.

- 1st. Because the court had no authority to inflict such punishment.
- 2d. Because the sentence ought to have declared what the fact is, A full and explicit acquittal of your memorialist having acted in breach of the 31st article of the Articles of War, otherwise the court could not have dispensed with carrying the law on that article into execution.

3d. Because

3d. Because after the full and explicit acquittal implied by the sentence, it proceeds to punish your memorialist for acts the law does not recognize, but on which the court assume a self-constituted power to decide and punish.

Your memorialist might with confidence affirm, whatever of shadow shall appear, the substance is wanting to render the crime defined by the 31st Article of the Articles of War, which says, "that a false muster must knowingly and with design be made, counselled or procured to be made, &c. &c."

That your memorialist did not knowingly, or with design, commit the wrong against the public service which this law proscribes is in full evidence on the proceedings of the Court.—

Your memorialist conceived from the particular situations of the individuals, whose names he proposed to include in his returns, that he might do so; but when he found the act questionable, which it is clear he did not apprehend to be so, until it was objected to (for he offered it without any preparation, or using any species of influence to give it effect) he immediately ordered his books to be corrected and to conform to the Master's ideas.

A false muster of any species or description was not in your memorialist's intention. His object was to oblige a nobleman by any act of gratitude in his power, for favours he had received, and the circumstance of his cook lent to the commissioners not being on board is explained by the commissioner's letter, as well as the circumstances under which he proposed to bear the Carletons on his

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ship, are explained by a letter from Lord Dorchester—in *fact* your memorialist *had not any design* to return a false muster, and in *Truth*, as appears by the evidence of the prosecutor, *he never did* return a false muster.

Your memorialist most humbly entreats your Lordships to take his case into your serious consideration, and to restore your memorialist to his former rank in the Navy, and your memorialist, as in duty bound, shall ever pray, &c. &c. &c.

C^s ISAAC COFFIN,

F I N I S.